

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals of the District of Columbia.

OCTOBER TERM, 1924.

No. 4230.

160

**HORTENSE W. TURNER AND VERMELLE T. WHITE,
APPELLANTS,**

vs.

VALLERIE T. SAVOY.

**APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
COLUMBIA.**

FILED SEPTEMBER 30, 1924.

PRINTED NOVEMBER 26, 1924.

Court of Appeals of the District of Columbia.

OCTOBER TERM, 1924.

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HORTENSE W. TURNER AND VERMELLE T. WHITE,
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vs.

VALLERIE T. SAVOY, APPELLEE.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
COLUMBIA.

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Court of Appeals of the District of Columbia.

No. 4230.

HORTENSE W. TURNER et al.

vs.

VALLERIE T. SAVOY.

a Supreme Court of the District of Columbia

In Equity.

No. 40881.

VALLERIE T. SAVOY, Plaintiff,

vs.

HORTENSE W. TURNER, VERMELLE T. WHITE, Defendants.

THE UNITED STATES OF AMERICA,
District of Columbia, ss:

Be it remembered, That in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:

Bill.

Filed January 18, 1923.

In the Supreme Court of the District of Columbia.

No. 40881.

VALLERIE T. SAVOY, Plaintiff,

vs.

HORTENSE W. TURNER, VERMELLE T. WHITE, Defendants.

The bill of complaint of Vallerie T. Savoy, respectfully shows:

1. She is a citizen of the United States, a resident of the District of Columbia, over the age of twenty-one, and brings this suit in her own right.

2. The defendant Vermelle T. White, is a citizens of the United States, a resident of Salisbury, State of Maryland, over the age of twenty-one years, and is sued in her own right.

3. The defendant Hortense W. Turner is a citizen of the United States, a resident of the District of Columbia, over the age of twenty-one years, is the mother of the plaintiff and the defendant White, and is sued herein in her own right.

4. On or about the 21st day of September, 1918, the defendant, Hortense W. Turner, purchased the land and premises situate in the District of Columbia known and designated as Lot 267 in the Sub-
 2 division of lots in Square 150, made by the National Safe Deposit Savings and Trust Company of the District of Columbia Attorney, as per plat recorded in Liber 26 at folio 81 of the Records of the Office of the Surveyor for the District of Columbia, subject to encumbrances aggregating \$4,500.00.

5. At the time of the purchase of the property aforesaid, the defendant, Hortense W. Turner, paid in cash on account of the purchase price thereof, the sum of \$500.00, of which said amount the plaintiff and the defendant White each furnished and provided one-third. The title to the aforesaid property was, however, placed in the name of the defendant Turner.

6. Since the conveyance to the defendant Turner of the property as aforesaid, the plaintiff and the defendant White have each contributed and paid one-third of the payments made upon the encumbrances on said property and have also each paid one-third of the expense of the maintenance and up-keep of said property.

7. The defendant Turner since the purchase of said property and up until the past two months has always declared, admitted and recognized both orally and in writing, that the plaintiff has a one-third interest in the aforesaid property. Within the past two months, however, the defendants have concealed the written acknowledgment of plaintiff's interest in the aforesaid property and are claiming and pretending that she has no such interest therein.

The premises considered the plaintiff prays:

1. That process may issue directed to the defendants requiring them to appear and answer this bill, but not under oath, the answer under oath being hereby expressly waived.

3 2. That a decree may be entered herein declaring the plaintiff to be entitled to an undivided one-third interest in the aforesaid property and that the defendant Turner holds the title to such undivided one-third interest as trustee for the plaintiff.

3. That the defendant Turner may be directed to convey to the plaintiff her interest in said property, subject, however, to the unpaid balance of the encumbrances upon said property.

4. And for such other and further relief as to the Court may seem just and proper.

MRS. VALLERIE T. SAVOY.

LECKIE, COX & SHERIER,
Attorneys for Plaintiff.

I, Vallerie T. Savoy, being first duly sworn, on oath state that I have read the foregoing bill by me subscribed, and know the con-

tents thereof; that the matters and things therein stated as of my own personal knowledge are true, and those stated upon information and belief, I believe to be true.

MRS. VALLERIE T. SAVOY.

Subscribed and sworn to before me this 16th day of January, 1923.

[SEAL.]

JUVA A. ROSS,
Notary Public, D. C.

4 *Joint and Several Answer of Defendants.*

Filed February 19, 1923.

* * * * *

The said defendants, jointly and severally, for answer to the said Bill say:

1-4. They admit the allegations of the first four paragraphs, and each of them, of the said Bill to be true.

5. They deny the allegations of the fifth paragraph of the said Bill, except the allegation thereof that the title to the property therein mentioned was placed in the name of defendant Turner, which they admit.

6. They deny the allegations, and each of them, of the sixth paragraph of the said Bill.

7. They deny the allegations of the seventh paragraph of the said Bill, except the allegation thereof that they claim that plaintiff has no interest in the property therein mentioned, which they admit.

And now, having fully answered, they pray hence to be dismissed, with their costs.

HORTENSE W. TURNER,
VERMELLE T. WHITE,
By JAMES A. COBB,
Her Attorney.

HENRY E. DAVIS,
JAMES A. COBB,
Attorneys for Defendants.

DISTRICT OF COLUMBIA, ss:

Before me, a Notary Public in and for the District aforesaid personally appeared Hortense W. Turner and James A. Cobb,
5 Attorney for Vermelle T. White, who and each of whom, being by me first duly sworn, depose and say: that they know the contents of the foregoing answer by them subscribed and that they verily believe the facts therein stated to be true; and further, that the said Vermelle T. White is absent from the District of Columbia.

HORTENSE W. TURNER,
JAMES A. COBB,
Attorney for Vermelle T. White.

Subscribed and sworn to this 19th day of February, A. D. 1923.
[SEAL.] CHAS. E. ROBINSON,
Notary Public, D. C.

Decree.

Filed March 14, 1924.

* * * * *

This cause coming on to be heard upon the bill and answers, and the testimony taken herein, and after having been considered by the Court, it is this 14 day of March, 1924,

Adjudged, ordered and decreed as follows:

The plaintiff is entitled, by way of resulting trust, to an undivided one-third interest in the land and premises situate in the District of Columbia, and known and designated as Lot 267 in the Sub-division of lots in Square 150, made by the National Safe Deposit Savings and Trust Company, Attorney, as per plat recorded in liber 26, at folio 81, of the records of the office of the Surveyor for the District of Columbia; subject, however, to existing incumbrances.

6 The defendant, Hortense W. Turner, holds as trustee for the plaintiff, an undivided one-third interest in the said land and premises, particularly described in the preceding paragraph hereof.

The defendant, Hortense W. Turner, is hereby directed to convey to the plaintiff within twenty days from the date hereof, by good and sufficient deed, the aforesaid undivided one-third interest in said property herein decreed to belong to the plaintiff.

In the event of the failure of the defendant, Hortense W. Turner, to execute and deliver the deed in the preceding paragraph directed to be executed and delivered to the plaintiff, then this decree shall stand, be considered and taken, in all courts of law and equity, to have the same operation and effect as if the deed herein directed to be executed and delivered to the plaintiff had been executed and delivered conformably to this decree.

The defendant, Hortense W. Turner, shall account and pay over to the plaintiff, her share of the rents, issues, profits or other income arising from the property in question, and received by the defendant Turner, which said rents, etc., amount at the date heretof to \$251.78.

This decree is not intended to nor does it, in anywise, affect the right of the plaintiff to an accounting from the defendants for their proportionate part of the costs of any improvements made by the plaintiff at her own expense to the property involved herein; any and all rights of the plaintiff, either by way of accounting or otherwise, arising by reason of the making of any improvements to said property, being hereby reserved to the plaintiff.

7 The plaintiff shall recover her costs herein to be taxed by the Clerk, and have execution therefor as at law.

By the Court:

JENNINGS BAILEY,
Associate Justice.

To the foregoing decree the defendants except, and in open court note an appeal to the Court of Appeals, whereupon the bond, to operate as a supersedeas, is hereby fixed at \$600.00, and the bond for costs of appeal is hereby fixed at \$100.00, with leave to the defendants to deposit with the Clerk in lieu thereof \$50.00 in cash.

JENNINGS BAILEY,
Associate Justice.

O. K. as to form.

HENRY E. DAVIS,
For Defts.

Memoranda.

March 21, 1924.—Bond on appeal for \$600 by defendant approved and filed.

April 4, 1924.—Order extending time to file statement of evidence to and including April 28, 1924, filed.

8

Stipulation.

Filed April 24, 1924.

* * * * *

It is, this 23d day of April, 1924, stipulated by and between the parties plaintiff and defendant in the above-entitled cause, by their respective counsel of record, that on the hearing of the appeal of the defendant Hortense W. Turner herein the certain book purporting to have been kept by the plaintiff and by her introduced in evidence on the hearing hereof, the same being identified and referred to in the statement of evidence on the said appeal, shall and may be presented in its original form to the Court of Appeals of the District of Columbia and considered and treated by the said Court and counsel for the respective parties on the hearing and consideration of the said appeal, as though the same were in the said statement of evidence fully and at large set forth; and, further, that this stipulation may forthwith be filed in the said cause to become and be part of the record on the said appeal.

LECKIE, COX & SHERIER,
Attorneys for Plaintiff.

HENRY E. DAVIS,
JAMES A. COBB,
Attorneys for Defendants.

Assignments of Error.

Filed April 24, 1924.

* * * * *

The Court erred as follows:

1. In holding that on the evidence plaintiff is entitled to a resulting trust, as in and by the Court's decree herein found and adjudged.

2. In adjudging plaintiff to be entitled to an interest by way of resulting trust in the premises in the bill of complaint mentioned and described.

3. In passing its decree herein aforesaid.

4. In not dismissing plaintiff's bill.

HENRY E. DAVIS,
JAMES A. COBB,

Attorneys for Defendant Hortense W. Turner.

Memoranda.

April 24, 1924.—Statement of evidence filed.

May 6, 1924.—Amendments and additions to statement of evidence, notice and acknowledgment, filed.

Designation for Record on Appeal.

Filed May 31, 1924.

* * * * *

10 The defendant, Hortense W. Turner, appellant, in the above-entitled cause, designates the following to constitute the record on her appeal.

1. The bill of complaint.

2. The answer.

3. The decree.

4. Memorandum of undertaking on appeal.

5. Memorandum of order extending time for filing statement of evidence.

6. Stipulation of April 24, 1924, as to record on appeal.

7. Assignments of error.

8. The statement of evidence.

9. This designation.

HENRY E. DAVIS,
JAS. A. COBB,

Attorneys for Defendant, Appellant.

May 31, 1924.

Memorandum.

May 31, 1924.—Statement of evidence signed in duplicate.

11 Supreme Court of the District of Columbia.

THE UNITED STATES OF AMERICA,
District of Columbia, ss:

I, Morgan H. Beach, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 10, both inclusive, to be a true and correct transcript of the record according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 40881 in Equity, wherein Vallerie T. Savoy is Plaintiff and Hortense W. Turner et al. are Defendants, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 25th day of June, 1924.

[Seal Supreme Court of the District of Columbia.]

MORGAN H. BEACH,
Clerk.

E. W.

12 In the Supreme Court of the District of Columbia.

In Equity.

No. 40881.

VALLERIE T. SAVOY, Plaintiff,

vs.

HORTENSE W. TURNER and VERMELLE T. WHITE, Defendants.

Messrs. Leckie, Cox & Sherier,
Attorneys for Plaintiff.

SIRS:

We submit herewith copy of the statement of evidence on the appeal of the defendant Hortense W. Turner in the above-entitled cause, and hereby give notice that we will submit the same for approval by the Court on Monday, May 26, 1924, at the opening of the Court, or as soon thereafter as counsel can be heard.

Respectfully,

HENRY E. DAVIS,
JAMES A. COBB,
Attorneys for Defendant Turner.

Service of the foregoing acknowledged this — day of April, 1923.

Attorneys for Plaintiff.

13 In the Supreme Court of the District of Columbia.

In Equity.

No. 40881.

VALLERIE T. SAVOY, Plaintiff,

vs.

HORTENSE W. TURNER and VERMELLE T. WHITE, Defendants.

Statement of Evidence.

On the trial of this cause the plaintiff offered and gave evidence as follows:

By herself, as a witness:

On direct examination:

I am a daughter of defendant Hortense W. Turner and the sister of defendant Vermelle T. White. Prior to September 1918 we three lived at 1340 T Street Northwest, Washington, D. C. Respecting the circumstances under which the property No. 1755 U Street was purchased, we were coming from a trip here and as we were all too poor for each to buy a house alone, we decided that all three of us would buy a house so that each one would be independent, and we would all three put our money into the buying of this house, so we decided that each would put in a certain amount of money and *and* buy the house and put it in our mother's name; all three of us paid one third of every expense in the house, one third of each note that had to be paid on the house, one third of the purchase price of the house, and we decided that we would pay one third on the furniture in the house, and all furniture we bought we paid one third of that; we were all to pay the same amount, and each one was to own a one third interest in the house, and Mrs. Turner, Mrs. White and I each paid
14 one third and each owned one third, but since Mrs. Turner was our mother we agreed to let the house go in her name. At the time of the purchase of the property, the plaintiff and defendant Turner were employed at the Bureau of Engraving and Printing, and the defendant White at the Martha Washington Candy Store.

When we bought the place Mrs. Turner, Mrs. White and I paid Mr. McKinlay \$100, of which I paid \$33.34; Mrs. Turner put in that much and I put in that much; then we paid the title company \$400, which made the first payment on the house \$500; there were \$110 expenses, then there was a refund of \$6.28, which made the total outlay \$603.72. The total price of the house was \$5,000. I paid one third of the \$5,000, I paid one third of the hundred which was paid Mr.

McKinlay, and the rest of the money, the \$400 which had to go to the company, I paid exactly one third and they the other two thirds. We agreed we would put all of the money in the bank in Mrs. Turner's name and let her pay all of the expenses of the house in this way; we did give her our one third of everything, but we would let her draw the check and sign her name to it, because then we would not have three different checking accounts; so we had a little book at home, and all of our money was put in the bank in Mrs. Turner's name and she would pay the notes; in this little book we had Vermelle so much, Vallerie so much and "Fats" so much—that is what we called our mother because she was stout, and in this little book at home we would have Vermelle \$300, because she had more money, and Vallerie \$200 and Mrs. Turner \$100; we would know by that little book just what each one had, but all money would go into the bank in Mrs. Turner's name, because we bought the house in her name. When we first started the bank account we put it in Mrs. Turner's name, Mrs. Turner put her money in, then Mrs. White put hers in and I put mine in; so I put my money in the bank, and the next day Mrs. White put her money in the bank, and then it went along until the 1st of October before Mrs. Turner could
15 deposit any money in the bank, but all of the money was deposited in Mrs. Turner's name, but to keep it from getting mixed up we had a little book at home so we would know how much each one had in the bank, and Mrs. White had to lend Mrs. Turner some money to make up her one third initial payment of the \$500 paid down on the house, because Mrs. White had more money than I had or Mrs. Turner.

After the first payment of \$500 was made to Mr. McKinlay, who sold us the house, the notes that were given were paid this way: Mrs. Turner and I used to go down there to see what was done; the notes that he had were for \$1,250, 41 notes for \$30 a month and one note for \$20, which had to be paid to Mr. McKinlay monthly, they drew six per cent interest, and each month there would be fifteen cents more, so each month Mrs. White would pay her one third and I would pay my one third, and Mrs. Turner would write out a check, and we kept that up until those notes were finished; we would give her one third each month and one third of the six per cent interest, that was handed to her, and Mrs. Turner would send Mr. McKinlay a check for the note, or if she didn't send a check she would simply go down there and get the notes each time she paid the \$30 with the interest, and Mr. McKinlay would hand her the note; when we first bought the house Mr. McKinlay gave Mrs. Turner those 42 notes to sign, and she signed them and he took them back, and then each month when we would pay she would get one of those notes back; sometimes she would go down and pay them with a check. We had to pay all of the notes through her name, we all paid our one-third, but we gave her our part of the money, she would go down and pay them, but we would each pay our own third. All of those 42 notes have been paid, and I have paid one third of every one and Mrs. Turner received all of them back, we have finished paying *from* them.

16 The first trust for \$3,250 was held by Mr. Drury; Mrs. Turner and I went to see him, he took this trust from Mr. McKinlay, Mr. McKinlay told us to go down there and see him, he told us that he had made the loan to Mr. McKinlay; Mr. Drury had three pieces of blue paper and these represented notes for \$3,250, and we had been paying six per cent interest on that, each six months, so when the six months came around after paying these notes I would pay one third of the \$30 and that we had to pay to Mr. McKinlay, and we also had to pay one third of \$97.50 interest on that \$3,250, and I paid one third of that every six months. That first trust note ran for three years; after the three years were up and we had finished paying Mr. McKinlay his money, which was \$1,250, we put it in the Equitable Building and Loan, Mrs. Turner and I went down there together and put a loan on the house for \$3,600; we borrowed \$3,600 on the house and have been paying the Equitable Building and Loan \$36 a month, every month I have been paying \$12 to Mrs. Turner and Mrs. White has been paying her \$12; this has continued up until now because the loan for \$3,600 isn't paid, and I have paid one third of that \$36 every month, and Mrs. White and Mrs. Turner have each paid one third of that \$36.

 About or shortly after the time this property was purchased, my mother signed a paper respecting the interest as it was in the property; she paid the title company with a check and they gave her a receipt, so I thought that was one of the important papers between us, and my sister did also, so we told Mrs. Turner that since we owned one third of the house, why not write on something to give us our rights in the house, we owned one third in the house, so she said certainly, because if it had not been for us girls we would not have had the house, that we all three bought it together on the
17 back of this receipt from the title company, which was about the size of a check—this paper was larger than a check—Mrs. Turner wrote "Vallerie Turner and Vermelle Turner each own a one third in trust in this house, 1755 U Street," and signed it Hortense W. Turner, it was written in very heavy blue ink and Mrs. Turner had the word "interest" spelled wrong, which I noticed later on look at the paper, she had it spelled "intrust." Mrs. Turner kept this paper, she kept all important papers, in a little rubber bag in the bookcase, and all three of us had access to this bag at any time we wanted to get into it. My husband saw that paper shortly before Thanksgiving, 1922, at 1755 U Street in my apartment on the first floor; I went upstairs and asked Mrs. Turner to give me the paper, to let me show it to my husband Dr. Savoy, I told Mrs. Turner that I wanted to take this paper down to show him that I did have an interest in the house, and she said, "Of course, you have a one third interest in this house," and she gave it to me and I took it down and showed it to Dr. Savoy; I took the paper back to Mrs. Turner, gave it right back to her, and since that time I have not seen the paper, I have hunted for it and couldn't find it.

 Shortly after I married Dr. Savoy and had moved into my own apartment, my mother handed me a piece of paper written by Mrs.

White and said, "This is a will from Vermelle," which she signed, and after I read this will my mother said, "Now here is a piece of paper and I want you to write out a will, Vallerie, just like this and make everything you have got out to me just like Vermelle has," and I said I would not make out such a will, and I didn't agree to make out such a will because I didn't think it would be fair to Dr.

18 Savoy. I have asked my mother several times about that paper that had written on it that I owned one third interest in the house, and before I commenced this suit I had a long talk with her and asked her please to straighten it out because of the publicity if we had to go to court, she told me she didn't have it and refused to give it to me.

I am familiar with the handwriting of my sister. I recognize as in her handwriting the letters shown me dated October 17, 1922, December 10, 1922 and November 22, 1922, and November 20, 1922, each addressed to my mother and signed "Vermelle."

(The witness resuming the following day:) I was asked yesterday about the money I said I advanced towards the first payment on this house, it was advanced before we bought the house, and as respects the understanding about the interest we were each to have, we decided we would all own one third in the house before we bought the house.

The will executed by my sister about which I testified yesterday was witnessed by Mrs. Kahn and Mrs. Wardell, and signed by Mrs. White. I saw a letter written by Mrs. White to my mother in April 1923. My husband saw it and Mr. Turner, my father, and Mr. Rose; the letter said "Enclosed please find check for seventeen dollars, which is the balance of my April house money. This squares me up with my April bills;" I took the letter and showed it to Mr. Rose and to my father and to my counsel, he told me to give it right back to Mrs. Turner, and I gave it back to her and have not seen it since.

My sister married May 18, 1921. I said yesterday that we gave our mother one third of the expenses and she paid the bills; after Mrs. White got married Mrs. Turner said that Mrs. White owned one third of the house like the rest of us, and we would have to make some provision for her, and so we all talked it over and Mrs. Turner

19 and I took the house just like tenants for \$51 a month and gave Mrs. White \$17 a month, which would be her third of the rent. Then Mrs. Turner and I could rent it out to suit ourselves, just so we sent Mrs. White her \$17.00 a month. We rented the house out to good advantage. I was to send her eight dollars and a half a month and Mrs. Turner was to send her eight dollars and a half a month, then she didn't have any more to do but to send her one third of the \$36. At that time Mrs. White owed me \$86 which I had paid on a piano for her, so instead of sending her \$8.50 every month I would subtract the \$8.50 from the \$86 in a book I had and get Mrs. White to sign it, and Mrs. White would sign it every month. My mother and I rented the house out, the second and third floor, and stayed on the first floor, and as my mother and I had the expenses we divided the rent, all the rent

taken in we divided, and then we paid the expenses of the house; I kept a record of receiving all the rent in that book and Mrs. Turner signed it, and I also kept a record of the \$8.50 I paid Mrs. White every month; the book shown me is the one I refer to. The page which shows that I transmitted to Mrs. White \$8.50 a month, or that I gave her credit for that amount, is right here; Mrs. White got married in May, and this starts in June—\$8.50 subtracted from money Mrs. White owed me, Mrs. White owed me \$38.50 I loaned her. \$8.50 off for June, \$8.50 off for July—August, right straight through, \$8.50 value paid, September rent.

This is the page containing entries showing rents received by me and my mother and the disposition made of them. Mrs. Turner would receive the rent and would pay me half of all the rent received in the house. My grandmother paid \$15 a month, this \$7.50 is grandma's rent signed by Mrs. Turner "Fats"; this is her signature all the way down, this turns on over here, showing every month the house was rented, and she signed it all the way down. We paid Mrs. White her seventeen for the third of the house, then Mrs. Turner and I had to divide all the expenses in the house between the two of us, but if there was any repairs pertaining to the house like the owner would have to pay, Mrs. White paid one third of
20 that. Here is the record showing payments made on these notes that matured on the Equitable Building and Loan trust, here it is (offered in evidence).

Before my sister's marriage I did not keep any written record of what was spent, before she was married we were all very happy there together, the three of us, and Mrs. White and I both just handed Mrs. Turner our money, the money was in bank in Mrs. Turner's name, and we just handed her our cash money and she would pay one third. I started to keep that record after Mrs. White married, because then she went away and Mrs. Turner and I had the house between the two of us; we sent Mrs. White her \$17 a month and we had the gas bill and the coal and all between the two of us to pay, and that is when we started keeping a record, because Mrs. White didn't have anything to do with the house except to send her third of the house note, \$12, each month, and to receive her \$17 from the house. The check shown me on the United States Savings Bank, Washington, D. C., dated August 25, 1922, payable to the order of Hortense Wallace Turner, for \$24, signed Vallerie Turner Savoy, is my check for two months' house note; the endorsement on the check is my mother's and the writing in the left-hand lower corner of the check "Two months' house note" was there when I first made the check out, that check has been paid out of my account. The check dated December 2, 1922, to the order of Madden Brothers, for \$5, with the notation "For fixing roof" in the left-hand lower corner, is mine, Mr. Madden fixed the roof and his bill was \$15. The check dated December 10, 1922, to the order of Hortense W. Turner for \$36, with "Three months' house note" in the lower left-hand corner, is mine, the endorsement is hers, and the check was paid. The check dated December 11, 1922, to the order

of Mrs. Turner for \$4.17, with "One third ton of coal" in the lower left-hand corner, is mine, the endorsement is hers and the
21 check was paid out of my account. The same is true of the check dated February 16, 1923, to Mrs. Turner's order for \$12.75, with "For one half of three tons of coal" in the lower left-hand corner. The receipt dated February 16, 1923, and the one dated March 7, 1923, the latter for \$4 for one third ton of coal, and thirty-three cent to put it in, paid by me, are signed by Mrs. Turner. In December, 1922 the defendants each gave the plaintiff one third of the tax bill of \$74.11.

I married in March, 1922, and after I married Mrs. Turner and I didn't rent the house out, we decided that each would take one third of the house, so I took the first floor and Mrs. Turner took the second floor, and Mrs. White, to whom the third floor was supposed to go, rented hers out; the first floor had three rooms, the second floor three rooms and the third floor two rooms, so Mrs. White said, since she had two rooms—less than we had—we should make some arrangement to give her some money because she was a room short, so Mrs. Turner and I decided each to give her \$5, and that gave me my apartment and Mrs. Turner her apartment, and Mrs. White had her apartment and was receiving \$5 from each of us, after that my mother and I each paid my sister \$5; Mrs. White owed me some money on a piano she bought from me and I took the \$5 I was to pay her off the money she owed me, gave her credit each month for that amount of money, and Mrs. Turner signed the book.

Mrs. White's apartment didn't have any kitchenette; she then said for Mr. Rose to come up there and see what she could do about it so she could rent it out; as Mrs. Turner said, since we all owned our apartments, we could do what we pleased with them, I took mine and improved mine more than any of them, Mrs. White had a kitchenette put in hers, and Mrs. Turner rented it for her and sent the rent to Mrs. White every month. I put electricity in my apartment, put a French door in my apartment and had it papered
and painted at my own expense, Mrs. Turner told me since
22 I owned that apartment I could do what I wanted with it, so I brought electricity in the house; I never added up the cost of the improvements I made to my apartment, but I have the bills and the notes I paid for the electricity and the gas and the checks where I paid for the French door and the papering and painting, and Mrs. Turner told me that since I paid for the current being brought in the house if they had electricity put in later they would pay me each one third of what I had paid to have the current brought in from the street. (Checks and receipts applicable to these items were given in evidence.)

I am not living in the apartment now. I left there after I told my mother I wanted my one third interest in the house and that I wanted my name put on the deed. She told me I would have to move because she and my sister were going to get together and say I didn't have anything in the house and she didn't intend to put

my name on the deed, and if I didn't agree to stay there and let the house remain in her name, the two would get together and two against one could always win. She served a notice on me to get out, but I didn't get out because I owned one third in the house and wouldn't move. After that she agreed by stipulation to rent my apartment out and let me move out, and agreed to let me send my part of the house note, which was \$12, every month, just the same, and I have sent it every month. The "Walter" referred to in the letter of October 17, 1922, is the plaintiff's husband.

On cross-examination:

The trip we took prior to buying the house was to New York City in August, 1918, it was the last part of August I think that we came back; at that time we were living in 1340 T Street. It was on the train and after we got home that we had the conversation about buying the house. At first we looked at a house in Georgetown, or near Georgetown, that Mr. Clarke owned, and then Mr. McKinlay told us about this house on U Street, and we went to look at
23 that. We looked at several houses; I talked about buying a house with everyone that Mrs. Turner did, we went together all the time; I believe the first person we talked with was Howenstein; I don't remember the address of the house, the houses he had didn't interest us; Mrs. Turner and I were there, Mrs. White wasn't with us. Then we went to McKinlay's office and Mr. Clarke in that office took us to see a house of his; we didn't like that house and Mr. McKinlay told us about this house on U Street. Three houses were brought to our attention by McKinlay or Clark before the U Street house, and that was the only — we liked, it was brought to our attention by both McKinlay and Clark in their office; no, the conversation did not all take place in McKinlay's office; while Clark was showing us the house he owned, then he told us about the other house when we told him we didn't like that, then on the way back to his office McKinlay and Clark both mentioned this house in U Street; on all these various occasions my mother and I were together and Mrs. White wasn't.

It was finally decided to take the U Street house in the fall of 1918, it must have been the first part of September. McKinlay drew up a paper, Mrs. Turner signed it, I was present, it was in McKinlay's office. The price of the house was \$5,000. I did not call at McKinlay's office or call on McKinlay shortly before bringing this suit and ask him to tell me what was the price of the house; I called McKinlay on the phone the day before I told Mrs. Turner I wanted my name put on the deed to the house and asked if he remembered us buying the house together, I didn't ask him what was the cost of the house, I knew the cost.

I was present when the original deposit of \$100 was made, it was in McKinlay's office, \$100 were paid, I gave to McKinlay myself \$33.34, he was paid in cash money; Mrs. White was not present.

I gave McKinlay myself in cash \$33.34 of that \$100 and
24 my mother gave the remainder, hers and Mrs. White's in

cash. It was in the morning about ten o'clock. I know that my mother got money from Mrs. White, I saw Mrs. White give her money before she went to work that morning; that morning at 1340 T Street I saw Mrs. White give my mother her share of this hundred dollars to make a deposit on the house, she handed Mrs. Turner all her money, she always gave Mrs. Turner all her money; I saw Mrs. White in 1340 T Street give my mother one third of \$100 to go towards a deposit to be made on the purchase of the house 1755 U Street, and I went with my mother to McKinlay's office and there gave my third, giving the odd cent, making \$33.34, which I personally handed to McKinlay. Mrs. Turner signed the papers right in my presence.

Referring to what I said on my direct examination about \$400 to the title company, the title company was paid \$400 by a check signed by Mrs. Turner; she had our money in the bank with her money and she signed the check to pay the title company, but it included her third and my third and Mrs. White's third; I had given Mrs. Turner one third of the \$400, we had the money in the bank, I had all my money in the bank in Mrs. Turner's name, I gave her some money and she put it in the bank to her account and Mrs. White did the same, and out of that Mrs. Turner paid the title company \$400 by check on the United States Savings Bank, 14 & U Streets, that is the only bank account my mother had. When we first agreed to put our money in the bank in Mrs. Turner's name I put in \$227 and Mrs. White put in \$229. Yes, I have my mother's bank book, I took that; it was upstairs where she kept her papers in the rubber bag, it was a bag belonging to us, all our important papers were in it; I took it in November, 1922 after she told me she wasn't going to put my name on the deed and that she and Mrs.

25 White were going to do me out of my one third of the house; after my mother and I had the difference about the house, I claiming that I had one third interest in it and asking her to give me evidence of that fact, and she declined to do it, I took this bank book and have kept it in my possession ever since. The first entry of a deposit in this book is \$227 and the day is September 18, 1918, and the second entry is the next day, September 19, of \$229.

Mrs. Turner paid the title company \$510 by check, which included the \$400 balance of first payment and \$110 expenses. I saw the statement from the title company, I don't know where it is, it was in the rubber bag the last time I knew of it.

I was present at the time the first deed of trust was executed for the \$3,250 loan, that was in Arms & Drury's office on G Street; McKinlay, Mrs. Turner and I were there, and I don't know whether it was Mr. Arms or Mr. Drury, a big stout white man, McKinlay introduced us to him. The deed of trust was executed there and the notes were signed there.

I was present when the \$1,250 trust was executed, that was in McKinlay's office, McKinlay, Mrs. Turner and I were present, I didn't see anybody else in there that I can remember, I know he called a notary public in later, but besides the notary public I and my mother

and McKinlay were the only persons present; I saw that paper executed. For the first \$3,250 deed of trust there were three one thousand dollar notes and one for \$250, and for the second trust there were 41 of \$30 and one \$20 note; they were all signed by my mother only, and the deeds of trust were signed by her only, we had agreed to let her sign. The money represented by the notes for \$3,250 and \$1,250 was the money that went to pay for the house. The notes

for \$3,250 were paid by the Equitable Building Association, 26 they all ran for three years and when they became due we went and made arrangements with the Building Association to take them up, to make a new loan for \$3,600, and that is the loan that is now running on the house; it was secured by deed of trust, my mother gave the Building Association a deed of trust in her name and agreed to pay \$36 a month, and that arrangement is still running.

I have paid my third every month; about up until July I had to pay cash money because I didn't have a bank account, I opened a bank account shortly after I married, which was July 1922, but up to that time I paid Mrs. Turner cash money, one third. Going back to the deed of trust securing the 42 notes, 41 of \$30 and one of \$20, each month as a \$30 note became due I gave my mother before I had my bank account one third of the \$30 note including six per cent interest, that I did every month as the notes became due; they were all paid before we went to the Equitable Building Association, so that up to the time we had this transaction with the Building Association I had paid one third of the principal and interest on the 42 notes and they were out of the way, and since then I have paid my one third of the \$36 monthly payments, each as it became due; sometimes we skipped the monthly payments and then paid in a lump to bring ourselves up to date, and that accounts for some of my checks being for \$24 and \$36 instead of for \$12.

The controversy between me and my mother arose prior to December 1922; I told her Thanksgiving Day I wanted my one third part of the house, she told me then she would let me stay there as long as I would let her name stay on the deed, and when I asked her to put my name on the deed she wouldn't agree, and that is the point about which the difficulty between us arose.

As respects my possession of the letters from Mrs. White addressed to my mother, Mrs. Turner told me that she and my sister 27 were going to conspire against me and say I didn't own anything in the house and that the house was in her name and Mr. Cobb told her she could keep it as long as it was in her name and I couldn't do anything about it, and we had let her have all the papers and she didn't let me have any papers, so I thought I would get it and see if I could find a paper stating Vermelle and Vallerie each owned one third in the house, and in hunting for that paper and in hunting for the will stating that Mrs. White had willed her third I found one letter stating—I took those letters hunting for those other papers, took them from my mother's possession, from her room; that was in December 1922; I took those letters addressed to my mother by my sister out of my mother's possession and have

kept them ever since, and with reference to the other letter of April 1923 about which I was asked, the one I quoted her stating it contained \$7, I took that letter, not out of the mail, I took it off the floor there in the hall before it was opened, it was a letter addressed to my mother unopened, and I took it and I was arrested for that, and afterwards after some time the case was abandoned; I had taken the letter and gave it back to Mrs. Turner in her house in her apartment; I haven't seen it since I handed it back to Mrs. Turner, I don't know what became of it.

About the book to which I have been referring, the entries in this book were all made from and after August 3, 1921; the books show payments that I made to Mrs. White, \$8.50 every month; it shows where I paid on those notes, it contains entries showing payments made by me to my mother and payments made by me to my sister, some of them were on the house account for repairs and one thing and another, and some were on account of the notes, so that from
28 time to time throughout the period covered by the book I was paying my mother these moneys—that only runs up to the time I got married, but up until that time the expenditures represented in the book are not only on account of the notes but also for repairs and fixing the furnace and the roof and buying coal and that sort of thing. These entires are of the general character stated, some on account of the notes, some on account of repairs and things about the house, money sent Mrs. White, also rent Mrs. Turner paid me, some of the entries are for interest I paid out on account of the maintenance of the house, and they are all together in that book, and that book begins in August of 1921.

The paper signed by my mother which contained an acknowledgment of my interest was a receipt from the title company and she wrote on the back of it, it was a receipt for \$500, just a slip of paper, a receipt where she had paid \$510 to the title company; the writing was in blue ink, in Mrs. Turner's handwriting, it just read "Vallerie and Vermelle each own one third interest in this house, 1755 U Street," signed "Hortense Turner," that is all there was on it; I saw that paper from the first time she wrote it, when we asked her, that was in 1918.

I have knowledge that my mother made a will, I know it wasn't long after we moved in that house; I was with her when she made the will at Mr. Dent's office. I think Mr. Dent handed it to me to read and I read it; I saw my mother sign it, I think I was with her the day she signed it, I saw the witnesses sign it, but didn't know either of them. There was but one paper that I saw some time before this will was made in which my mother expressed the fact that I and my sister were interested in this house; she wrote that on that paper, there was only one such paper.

On redirect examination:

29 I have made payments on account of the Building Association loan, have taken the book to the Association and had payments entered, many a time. (The book offered.)

By Jeanette Wardell:

I am Mrs. Turner's sister-in-law. I recall having at Mrs. Turner's request signed a paper written and signed by Mrs. White; I don't remember when it was, I think it must have been in October.

By Levinia J. Kahn:

I am acquainted with Mrs. Turner; at Mrs. Turner's request I signed a paper written and signed by Mrs. White; it seems to me it was in the fall.

By Walter Stanford Savoy:

On direct examination:

I am the husband of the plaintiff, was married March 29, 1922, and after marriage lived at 1755 U Street, Northwest; besides myself and wife Mrs. Turner and her mother, Mrs. Wardell and Mr. and Mrs. Trent lived there. I never had any specific conversation with Mrs. Turner regarding the ownership of the property. One time when we were putting electricity in I inquired if Mrs. Turner was going to put electricity on her floor, and she said "No, I am not able to have electricity put in just now. Vallerie can do just as she pleases in her apartment, but I am not going to have it put in my apartment just at the present time." As respects any conversations between my wife and Mrs. Turner concerning the ownership of the house, on one occasion when Mrs. Turner came down to our apartment to get two letters written by Mr. Cobb, she explained to Mrs. Savoy that she would give her exactly the amount she had put in the house, one third the cost price, but she was not going to give her one third of the selling price today, she said "I will give you what you put in the house and that is all you are going to get. I am not going to give you one third of the selling price today." My wife
30 has said on several occasions she owned one third of the house and she was paying one third of all the expenses and repairs of the house, in the presence of her mother, and her mother never denied that, which gave me the impression it was a fact. She said it several times.

On cross-examination:

One of the occasions on which I heard this statement made was one afternoon when we were sitting in the reception room talking casually, in the month of December 1921; we were sitting in the reception room casually talking about different affairs; I can't recall who opened the conversation, I can't remember why there was any talk about it, what brought it up. Another occasion was when we were sitting out on the step in May 1922; I don't recall what brought the subject up then. Those were the only occasions I can remember just now, and I can't remember what brought the subject up on either occasion.

By Solomon Henry Rose:

On direct examination:

My business is real estate. I have known Mrs. Turner and her daughters ten years I guess. In the fall of 1922 Mrs. Turner called me over the phone to see the apartment on the third floor of 1755 U Street, to see how it could be arranged to turn it into an apartment; I looked at the apartment and suggested a partition and two closets be taken out and turned into a kitchenette, and she listed the apartment with me for rent; before I rented it she had rented it to a man by the name of Trent. Mrs. White, Mrs. Turner and Mrs. Savoy all three were there that evening, and she told me she wanted to turn that into an apartment for her daughter Mrs. White, that her daughter was away from home, that Mrs. Savoy was living in her apartment, and she, Mrs. Turner, had her own apartment, and that

31 the rent from that apartment would be sent to Mrs. White because of the fact that the three owned the house and Mrs.

Turner was in her apartment, and Mrs. White being away she wanted to send Mrs. White the rent for that apartment.

(Counsel for defendants objected to the foregoing testimony and moved that it be stricken from the record, upon the ground that nothing subsequent to the actual transfer of the property is relevant to establish a resulting trust. The Court overruled the motion, upon the ground that, while a resulting trust could not be established merely by proof of what happened later, subsequent admission as to the state of facts might be relevant as to what happened at the time; to which action of the Court counsel duly excepted.)

On that same evening Mrs. Savoy was showing me through her apartment to show how she had it fixed up and arranged, electricity, etc., and made a remark in the presence of her mother, "This is my apartment, the next is mama's and the next is my sister's. We three own the house and this is what I have done."

(The foregoing was over objection and exception by counsel for defendants, who moved to strike out the same, which the Court denied.)

Mrs. Turner didn't say anything to that.

On cross-examination:

On this occasion Mrs. Turner and Mrs. White were present.

By George W. Turner:

On direct examination:

Mrs. Turner is my former wife and Mrs. White and Mrs. Savoy are my daughters. I had conversations with Mrs. Turner regarding the ownership of 1755 U Street three years ago in January, 1921,

in the house; Mrs. Turner divorced me some time after that January; the two girls were present at all times when we had conversations with regard to that property. I had been away for over five years and came back here and we became friendly and I
32 often visited the house. Mrs. Turner said that the three purchased this property, that it was a three cornered affair, that they purchased the house together and all the repairs were paid jointly by the three and all improvements and everything were kept up by the three, that each had ownership of one third of the property. After the divorce between me and Mrs. Turner I had several conversations with her about the property, I have had them as late as this suit was filed; she always admitted that the daughter had money in the property, she wouldn't say how much, she wouldn't then say a full one third; she said she had put up money for various things in the property, for the purchase and all other things, but she said she didn't quite put one third in. These statements were made as lately as within a year this last year.

I never talked to Mrs. Turner respecting the arrangement that was made with Mrs. White when she left, when she married; I do not know anything about what division of rents was made after Mrs. White was married. As respects Mrs. Turner's ever expressing any reason for not wanting to give Mrs. Savoy an interest in the property, or recognize her interest in it, she said she didn't want to give Vallerie her interest in the property because she felt sure she would mortgage the property and give the money to Dr. Savoy to open a sanitarium. That is why she didn't want her to have it; that she never denied she had an interest in it, but since they were married she didn't want her to have it, for that reason—that he would get hold of the money.

On cross-examination:

During the five years before this talk in January, 1921, I was absent in Ohio, Pennsylvania, different parts of the State. Whether in fact I deserted Mrs. Turner and remained away for five years, why we had been separated some time before that and I had
33 contributed for years right here to the support of the child; I was away for five years, we had been separated a long time; I did not contribute anything within that five years, and I was finally divorced by Mrs. Turner.

Plaintiff further offered and gave evidence that at the time of the transaction culminating in the purchase of the house No. 1755 U Street, Northwest, it was encumbered by a deed of trust securing an unmatured loan; that this encumbrance was not assumed in the purchase but was paid off and the deed securing the same released by means of a loan of \$3,250 procured through Messrs. Arms & Drury, real estate brokers; that the new loan was represented by three notes for \$1,000 each and one note for \$250, all made by defendant Turner, who also alone executed the deed of trust securing the said notes; and that said defendant also executed a second deed of trust on the house securing \$1,250, represented by 42

monthly notes, each signed by her, to the order of the seller, 41 being for the sum of \$30 each and one for \$20; and that the purchased price of the house was thus paid by the cash payment of \$500, the \$3,250 procured on the first deed of trust and the \$1,250 procured on the second deed of trust as aforesaid. The transaction was had through the Columbia Title Company in the usual way, the Company seeing to the necessary recording of the papers including that of the release of the former deed of trust on the property at the time of the purchase, which release appears from the record to have been recorded on November 18, 1918.

34 And thereupon the defendants offered and gave evidence as follows:

By defendant **Vermelle White**:

On direct examination:

I am one of the defendants in this case, the daughter of Mrs. Turner and the sister of Mrs. Savoy; I was married May 18, 1921, and am living in Salisbury, Maryland.

Prior to my mother's buying the house 1755 U Street, my mother, my sister and I, all three of us, lived at 1340 T Street, Northwest. My first knowledge of the contemplated purchase of 1755 U Street was when we were returning from New York on a train, my mother said she would like to get a house, and that was the first I heard of it. I did not have anything to do with buying the house, did not look at it before it was bought, was not at the office of McKinlay when the transaction was closed. I have knowledge of my mother's making a deposit of \$100; she asked me if I would loan her a hundred dollars to make this deposit, which I did, and she paid me back \$25 a month; I did not make any contribution to the \$100 except to lend it to my mother and she paid me back the sum she borrowed for that purpose. I did not have any understanding with my mother that I was to contribute one third or any proportion of the amount to the purchase of the house; after the house was bought I did not contribute anything towards paying the notes. We were both working and the house was a home for the three of us, and whenever my mother asked me for money I would give it to her, I didn't know what she did with it, it was simply to pay the bills for the food and coal and whatever she needed it for, we never even asked what she wanted it for, it was simply carried on the house expense. My aunt gave me the \$100 I loaned my mother, gave it to me in 1917 when I graduated from the Normal School.

The amount was \$300 and this hundred was part of that.

35 I remember writing my mother a letter in April 1923 sending her \$7. My mother had written me that she was short of money to pay her bills and she needed \$7 to finish up her house note, and I sent it as I usually did, she said it was \$7 she was short on the house and if I had it please send it, and whenever she was short and I had any money I would let her have it; if I recollect, I told her in that letter I didn't have any more money to help her

with the bills, but here was \$7 to make up the house note money. The house note was \$36 and my mother in this letter told me she was short \$7 and asked me to send it, which I did; with that exception I did not at any time make any contribution to my mother with special reference to the house notes, that is the only instance.

I wrote the letter of October 17, 1922, shown me. The statement in that letter, "I am sending you this letter supposed to have been written in Washington and signed there, please put it up and get it signed by Jeannette and I don't know who else but don't get Valerie or Walter," refers to what I thought was a will. I enclosed it in the letter, signed it, in Salisbury and sent it on to Washington; the witnesses did not sign that paper in Salisbury; I wrote the paper and signed it and sent it on to Washington, and if anybody signed it in Washington I don't know of it except by report. I supposed it necessary to have the paper appear to be signed in Washington, because I thought I had to be present when a will was signed, I didn't know I had to be present when it was signed but thought it necessary that it should appear to be signed in Washington. My mother sent the paper back to me signed by two witnesses, and I kept it until I returned to Washington.

At the time I wrote this letter of October 17, 1922, I had seen the will of my mother dated January 30, 1919, and it was my
36 impression that that gave me a present interest in the property and I made this attempt at a will. When I returned to Washington—this case had been filed—Mr. Cobb told me the paper I had written was no will, because my mother owned the property and it was hers and should I die she would have it just the same; I asked him about having a third in it, because I heard this case was filed then, and he told me that I didn't have a third in it because the house was hers. I destroyed this paper I thought was a will.

The book heretofore put in evidence which Mrs. Savoy said she made in her handwriting I never saw until the other day here in Court, that is the first time I ever saw the book. I know nothing of the entries in the book relating to me or of any transaction to which they appear to relate. I do not know anything about the entry "\$8.50 Vall paid Ver for June rent;" she never has paid me any rent, I was not at any time paid by Mrs. Savoy anything on account of rent for anything; we loaned each other money and borrowed and paid back at any time, she never paid me any rent, she paid me back money she had borrowed from me. She and I undertook to buy a piano together, she paid some money for me on a piano and I had to pay her back, which I did on different trips when I returned to Washington; I think I owed her \$86 on the piano. I bought here out, am paying her now for it, still owe her money on account of the piano.

The piano was bought in the fall of 1918 from De Moll's music house. I remember an occasion in the fall of 1918 when one of De Moll's agents, Mr. Burton, called at the house 1340 T Street to be sure we were going to take the piano, and at that time I didn't have enough money to make a payment then, and we asked our

mother to loan us some money to make a payment on it; she kept a lot of money in the house, and when she got her money out to give it to us Mr. Burton asked her why she kept so much money
37 in the house, why she didn't keep it in a bank; she said she was afraid to put it in banks and he explained to her that it was more safe in the bank than in the house and she decided to put it in the bank. I think the piano was bought in September before we moved into the U Street house.

With reference to Mrs. Savoy's book, there was not any matter on which she was under obligation to furnish or did furnish me any money except in connection with the debt I spoke of, unless she would just borrow \$15 or something like that to get a hat, and she paid it back; as it stands now I think I owe her \$200. Until I saw this book in the Court room the other day I had never seen it.

I remember the occasion of my father's coming back to Washington in January, 1921. My sister and mother and I being together, my mother told me that since my father had returned, and he had been away for about eleven years, she thought that we had better keep account of the money we gave her to run the house on, that she did not know what would happen, that he was very shrewd and might come in and get the house, if she should die, and everything away from us; but that was in January and I was going to be married in March and I didn't bother about keeping any book, I was too busy; I think my sister started that book, it is dated after May, the first entry in this book is August 3, 1921. My mother told us she wanted us to keep an account so that it would show we had contributed money and spent money with her to carry on the home, and that was in anticipation that my father might set up some claim to the house.

Respecting the paper my mother is said to have signed acknowledging an interest by me and Mrs. Savoy in the house, I do know what that paper was; if I remember it was on the back of the receipt of the title company, one of the papers from the title company, when my mother wanted us to be sure if she died we would
38 get the house instead of our father; she told us there had been a case where the mother died and two daughters were stripped of everything, and she wrote on the back of this paper that at her death each one of us would have a third interest in the house, because she thought she was then making a will; this writing on the back of the title paper was a recital by my mother that at her death we two girls were to have the house and my mother told me she thought that was a will, then afterwards she brought me a will that had been made in Mr. Dent's office. I do not know what became of that paper.

Referring to my mother's bank book beginning September 18, 1919, just after the conversation Mr. Burton had about keeping money in the house, I did not deposit the sum of \$229 entered in this book on September 19, I did not deposit any of it, I did not give my mother any of it; I had nothing to do with depositing that \$229 and didn't contribute any part of it.

In the letter of November 20, 1922, the expression "I haven't any sewing also, but will be out one day this week or I think some day of next week, so I can send you the \$3 and a third," means $\$3\frac{1}{3}$ for the roof; my mother used to ask me for money any time to help her out and she would state how much she needed and I would send it, she used to help me out in the same way; she evidently had some expense on the roof and she asked me to send it to her. As to the expression, "Am glad you paid the bill for the grates and that you took it off the bill, because I got scared as soon as I opened the letter and saw another bill, and am returning it," I remember my mother writing, telling me she was having some grates fixed, but what that cost and who fixed them I don't know, and she used to pay my bills and different things I had in the city and send me bills back
39 after she paid them, but I don't know about the grates; she attends to a lot of business in the city for me that I haven't transferred to Salisbury, and she sends me the bills when she attends to my business; "about the money for the furnace, take off the bill what you think is right, but let me know how much you take off for a week or a month, you decide, for yourself," that is still about the furnace, I don't remember what bill this could be, unless it is referring to the same bill, the bill about the grates.

Respecting the statement, "There was a paper in your book, sort of a deed or something, on which you had written that one third of the house belonged to each of us, look and see if she got it," my mother wrote and told me that my sister had been up in her apartment and taken all her important papers and that paper is the one about which I spoke, I thought it was the title deed paper on which she wrote on the back that at her death we would get the property, I was referring to that paper.

As respects the expression, "I guess I owe for some coal about now, let me know how the coal proposition is," my mother wrote and told me she was buying coal at that time at \$10 a month because she didn't have money enough to put it in and I told her I would help her out with the coal, to write me when she bought any coal and I would send her some money on it. Regarding the following extract from my letter of November 23rd, "Now, I haven't one cent, and doctor has to pay that \$250 note, or as much of it as he can and get someone to sign for him in order to meet the interest, so I can't ask him for a thing. You will have to take my insurance and borrow the \$19 left which I can borrow on it, or take it out of the December rent, if those people pay for December. That will be \$12 house note, \$10 Lansburgh Furniture Company, \$10 for Val. for
40 piano, and \$10 taxes—\$42, and \$3 for Madden, and I will scrape up the $33\frac{1}{3}$ cents for Madden and the extra assessed penalty for taxes as soon as I can. I hope by Monday I will be able to squeeze out the three dollars for the dress. If you don't borrow the \$19 on the insurance for the taxes, I will have to borrow it anyway for my policy which is due in November, and I have no work ahead," my mother would write and tell me she was short of money to pay different bills and whenever she did I would send

her money if I had it, and where I asked her to take the money out of the rent there, she would do the same by me; evidently I was short at that time and asked her to take \$19 off my policy, borrow it and if she couldn't to take it off the rent, she received all the rent for the house and used to send me money all the time when I was short and I would send her money when she was short.

I was here when the transaction was had about installing electricity in the house. My mother told my sister that she could put electricity on the first floor since she had married, that she could have that first floor to live in if she wanted to and fix it up like she wanted to fix it up, she gave her permission to put electricity on the first floor.

On the morning that my mother went down to McKinlay's office to sign the agreement about the house I did not, as my sister has testified, give my mother one third of a hundred dollars, I gave her the whole hundred dollars, I loaned it to her and she paid me, my sister was present when I gave my mother the hundred dollars. I had absolutely nothing to do with the making of the notes and the giving of the deeds of trust that I have been asked about; I did not at any time make any promise or have any understanding with my mother that I was to pay any proportion of anything on account of these notes; I did not have any relation at all to the transaction by

41 which the Building Association took over the loan, that was in September, I was in Salisbury I think.

I was not present on any occasion such as my father has testified to, when as he said he had a conversation with my mother, at which Mrs. Savoy and I were present, in which conversation my mother said that we three had purchased the property, that it was a three-cornered affair, that we purchased the house together and all the repairs were paid jointly by the three and all improvements and everything were paid by the three and that each of us owned one third of the property; I did not hear any such conversation as that related by my father, I was not present when any such thing happened if it ever did, I was not present on any occasion when my mother said any such thing to my father; I only remember him coming to the house once, that was not in regard to the house at all, it was in January, 1921; there was a conversation then between my mother and him, I was not present and don't know what the conversation was about; that is the only time I ever remember him being there.

I was not at Mr. Dent's office when my mother made a will, my first knowledge of it was when she showed it to me afterwards. I think my father had been away something like fifteen years before January, 1921; at the time he left my sister and I were real small children; I know he did not contribute anything to my mother's support because my mother had such a hard time rearing us, he did not contribute one cent.

On cross-examination :

In September, 1918, my mother was working in the Bureau of Engraving and Printing; my sister was working there too, they each received a little over a hundred dollars a month, that is the only means of income my mother then had.

42 Respecting my letter of October 17, 1922, and the will referred to, the reason I suggested to my mother not to get Vallerie or Walter, that is her husband, to witness the will was that my sister had already written me and said she was going to make trouble between my husband and me and I was willing my belongings to my mother and didn't want my husband to know it, she would have written and told him. After this paper came here it was witnessed by Mrs. Kahn and Mrs. Wardell and returned by my mother to me; I kept it until after this suit was filed, until I returned to Washington the next time in May, after this suit was filed, and then destroyed that will, I have already stated why.

Respecting the letter of April, 1923, I didn't say that my mother had written me stating that she needed some money and asking me to loan her some money; my mother would write and tell me what bills she had to pay during the month, she did that every month and she would tell me how much short she was on it, on each bill, she always itemized the bills she had to pay and how much short she was, and would ask me each month how much I would send her, and I would send her on the different bills she had itemized whatever I had to spare. My husband allowed me about \$75 a month to run the house, and I sent money to my mother, not every month, but whenever she was short, some months she would be very busy sewing and she wouldn't have to ask me for any money that month. It isn't a fact that in that letter of April 1923 I stated I was sending a check for \$7 in payment of my house note for April, I remember that distinctly; whether that check was cashed I don't know, because my sister stole the letter, I don't know that my sister returned the letter to my mother and don't know whether that check was cashed or not; I don't remember making any effort to find it, I don't remember my counsel asking me even. That is not my signature "Vermelle" in the book produced by plaintiff, it is not my signature, I never saw that book, none of those are my signature, I never saw that book.

43 In writing in my letter of Novemebr 22, 1922, "You will have to take my insurance and borrow the \$19 left which I can borrow on it or take it out of the December rent if those people pay the rent for December," I don't know exactly what the people's names were, I was not living in Washington at the time; I couldn't tell you how much rent they paid, they must have been the people who occupied the third floor because my sister had the first and my mother had the second, but what they paid I don't know; the third floor was not my floor and I certainly did not get from my mother regularly the rent from that floor. In saying "That will be \$12 house note" I was talking about my mother's house; the payments on the house were \$36 to the Building

Association, I supposed she had the whole \$36 to pay; as to why I said house note of \$12 instead of \$36, I told you before that my mother would just itemize what she was short, how much she was short and whatever she was short on any of her bills I would send. As respects "\$10 Lansburgh Furnishing Company." evidently she was paying Lansburgh Furnishing Company and was \$10 short on it. "\$10 Val. paid for piano," that is \$10 to go to my sister for the piano, I owed that on the piano. This \$10 item was money my mother had paid my sister on account of the piano. As respects "\$10 taxes," evidently she was \$10 short on the taxes, I do not know what the taxes were. I really don't know what the taxes are. No, it is not as a matter of fact that that \$10 was my share of the taxes for the year 1922, or the half year, 1922. I don't know what "\$3 for Madden" was for, evidently Madden was doing some work for her; I do not know it was a \$10 bill for repairs to the roof. As a matter of fact my mother and I in December 1922 did not each turn over to my sister one third of the taxes and my sister did not subsequently pay those taxes.

44 The paper referred to in my letter of December 19th, 1922, the paper on which I say in the letter my mother had written that each owned one third interest in the house, was if I remember written soon after she bought the house in the year 1918; the occasion of her writing that was she told us she wanted to be sure we would get the property if she died; what she wrote on the paper, as nearly as I can remember, was "On my death this property 1755 U Street goes to Vermelle and Vallerie Turner," at her death; I didn't say she had written on there that we each owned one third interest in it, she said that; yes, this is my letter "There was a paper in your bag, a sort of deed or something, on which you had written we each owned one third interest in it, look and see if she got it;" my sister had written and told me she had begun the suit; in this letter I was writing to my mother to learn about that paper, I knew that she had the paper, I didn't know what became of it; I thought my sister would attempt to borrow on that paper because my mother had told me my sister wanted to borrow on the house to build a sanitarium for her husband.

Yes, at different times I advanced my mother money to buy coal, run the place; respecting the statement in this letter of December 10, "I guess I owe for some coal about now," in fact that year I told her to pay her coal bill and I would pay a part of it, and I would write and ask her how much I owed on her coal bill, my mother really owed but I was helping pay for it; I was getting by way of consideration for this money no more than that was our common home, I came home whenever I got ready, and stayed there whenever I pleased, staying with my mother.

Respecting the statement in this same letter, "Am glad you paid the bill for the grates, and that you took it off the bill, because
45 I got scared as soon as I opened the letter and saw another bill," and what bill it was that the cost of repairing the grates was taken off, if I remember my mother wrote and told me they charged a very large bill for repairing the grates and she was paying

On cross-examination:

In September, 1918, my mother was working in the Bureau of Engraving and Printing; my sister was working there too, they each received a little over a hundred dollars a month, that is the only means of income my mother then had.

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Association, I supposed she had the whole \$36 to pay; as to why I said house note of \$12 instead of \$36, I told you before that my mother would just itemize what she was short, how much she was short and whatever she was short on any of her bills I would send. As respects "\$10 Lansburgh Furnishing Company." evidently she was paying Lansburgh Furnishing Company and was \$10 short on it. "\$10 Val. paid for piano," that is \$10 to go to my sister for the piano, I owed that on the piano. This \$10 item was money my mother had paid my sister on account of the piano. As respects "\$10 taxes," evidently she was \$10 short on the taxes, I do not know what the taxes were. I really don't know what the taxes are. No, it is not as a matter of fact that that \$10 was my share of the taxes for the year 1922, or the half year, 1922. I don't know what "\$3 for Madden" was for, evidently Madden was doing some work for her; I do not know it was a \$10 bill for repairs to the roof. As a matter of fact my mother and I in December 1922 did not each turn over to my sister one third of the taxes and my sister did not subsequently pay those taxes.

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it monthly, and when she would write me and tell me how much bills there were I would often get scared because I would have to send money to help her out, and as I remember these grates were very expensive and she paid so much a month on them. "Now about the money for the furnace, take off the bill what you think is right, but let me know how much you take off," I suppose that refers to the grates too; another item of repairs to the furnace, I suppose that refers to the grates, these letters have been written so long I can't remember. I never paid the money as a loan, I simply paid it as a help to my mother, she had done so much for me; I did not expect her to pay it back, not for those things, she never did. After I married and left home my mother took care of all my matters that needed attention in Washington and if there were any moneys due me she collected them and used them as she saw fit, she would just use that money as she saw fit, and if she got short I would send money to her to help her out. We girls called our mother "Fats," the signatures by that name on pages 79, 80, 81, 82, 83, 84, 85 and so on through the book are my mother's.

It is not a fact that when I got married and left home my mother, sister and I agreed that a fair rental value for the house was \$51 a month and that I should receive \$17 of that amount, and it isn't a fact that each month thereafter my sister gave me credit on the amounts I owed her of \$8.50, I don't know anything about that entry on page 81 of \$8.50 "Val. paid Ver. for June rent," I don't know anything about the entry "\$8.50 Val. paid Ver. for July rent," I never saw that book until the other day, that was started after I left.

46 I don't know what the entry "Val. to Ver. for September rent \$8.50" means; I don't know anything about the \$8.50, I don't know anything about the book.

As to whether Mrs. Savoy made payments on account of these notes that were outstanding on the house, mama might tell us she needed money and I would send her money; I don't know anything about Mrs. Savoy making payments, I never saw her; I know that I never did, I never paid any of the notes represented by the second trust and my sister did not ever pay any of them for me. I don't know anything about the entry "\$11.75 Val. paid for Ver.'s house note, August 24th, because Fats didn't have it," that is signed by my mother; I was not in Washington then, August 24, 1921; I think I owe my sister \$200, the \$86 was cleared up before I even bought the piano from her, and when I took it over I started paying right at her price, when I bought the piano I think I agreed to pay her \$450. The money I sent my mother from time to time I sent sometimes by money order, sometimes by check and sometimes in cash, the checks are all drawn in my husband's name, but it would be an easy matter to get them, I could get those checks, I didn't make any effort to find them before I came here to the trial because I didn't think it had anything to do with the case, they are in Salisbury.

On redirect examination:

It is not true as my sister has testified that of the loan made through the Building Association she contributed \$12 each month and I contributed \$12 each month towards paying off each of the notes for \$36; beyond what I have narrated and related here on the stand I made no payments on any other accounts, I gave her what she asked for but it didn't go on any account for the house or anything, she simply used it as she saw fit. I have many times seen my sister write the name "Vermelle," we write exactly alike, the teachers couldn't tell our writing in school; the entry on
47 page 82 of the book, "Vermelle owes Vallerie" is not my handwriting; I certainly did not see that book until I saw it here in Court, that book started after I married and left Washington; the entries that I was asked about as to whether or not they were mine are in my sister's handwriting.

On recross-examination:

After my sister married, I didn't take the third floor because I wasn't living there, but my mother and sister had the first and second; I did not have Mr. Rose go to the house to advise me how the third floor could be transformed into an apartment. I have already stated that I was not in Washington; the third floor was transformed into an apartment by putting in a kitchenette, when I came home I found it was an apartment, and that apartment was rented out; I never received from my mother and sister each \$5 a month in addition to the rent I received from that apartment, and I certainly did not agree that I would be entitled to \$10 each month because of the fact that I was not getting three rooms, and I certainly have not received credit each month in my account with my sister for that \$5 which she owed me, and the entries which appear in this book to the effect that I was credited with \$5 each month and which entries my mother signed are incorrect, they certainly are, I don't know anything about them, I was not present.

On redirect examination:

I heard Rose testify here about the occasion on which he went to the house. I was not in Washington, I was not present on that occasion; my sister and I are twins.

48 **By Hortense W. Turner:**

On direct examination:

Prior to September 1918, my daughters, Mrs. Savoy and Mrs. White, and I were living at 1340 T Street. I first entertained the idea of buying a house when we were on a trip to New York, it was first mentioned by me on my way coming back. I went to McKinlay's office to see him and Mr. Clark about it; Mr. Clark showed me several houses, neither my daughter Mrs. Savoy nor my daughter

Mrs. White was at any time with me when I was looking at houses. When finally I decided to buy 1755 U Street, I went to the office of McKinlay and signed an agreement for that purpose. I recognize the paper shown me as the agreement, the signature over the name "Purchaser" is mine, and that over the name "Agent" is McKinlay's. The deposit of \$100 was made in McKinlay's office, McKinlay, Clark and I were present, neither Mrs. Savoy nor Mrs. White was there. The \$100 which I then paid I borrowed from Mrs. White, my daughter, I paid it to Clark or McKinlay, I think I handed it to Clark and he in my presence turned it over to McKinlay. After the title had been examined I went to their office to complete the transaction. I signed the first papers, the four notes dated September 24, 1918, three for \$1,000 and one for \$250, that is my signature to each one of them, and they were signed at the office of McKinlay, that is my signature to the deed of trust securing these notes. I remember Mr. Lacey taking my acknowledgment and witnessing the deed, that was all done in McKinlay's office. The notes, 42 in number, 41 for \$30 and 1 for \$20, were signed at the same time in McKinlay's office, and the deed of trust securing them, bearing date September 24, 1918, also bears my signature and acknowledgment. These papers were all signed in McKinlay's office and the deed presented to me is the deed delivered to me for the property.

49 At the time of making the \$100 deposit, Mrs. White loaned it to me, but except for that neither of my daughters had contributed and I paid Mrs. White that hundred dollars back. The agreement of sale provides for a cash payment of \$500 and acknowledges \$100 on account, leaving a balance of \$400, the check for \$510.00 given by me to the title company included for stamps, the examination of title, and all that, getting the paper out, making the sale. The check bears date September 24, 1918. The first entry in my bank book, a deposit on September 18, 1918, of \$227, I made that deposit and the next one on the next day \$229, I made that. The first \$227 was in my house, I had that, I had saved it and had it in the house. Shortly prior to this transaction Mr. Burton was at the house 1340 T Street about the purchase of a piano, and when making him a payment he told me I had too much money in the house, he knew that because I took the money out to pay him, the money was in the china closet, in a dish, a covered dish, both of the girls were present and Mr. Burton, he said it was too much money for me to keep in the house, that I ought to put it in a bank, which I did. That money, \$227, was money I already had in the house. As to the \$229, when I put in the \$227 I was not accustomed to not having any money in the house, I put in \$227 and kept some out; the next day my sister-in-law Mrs. Wardell paid me \$200 which she owed me and I took that \$200 and put the other with it and put it in the bank, making \$229 all together. The paper shown me dated July 16, 1918, is Mrs. Wardell's note to me as follows: "July 16, 1918. I do hereby agree to pay Hortense W. Turner the sum of \$400, within six months from date, value received, Jeanette Wardell;" it was part of that

\$400 she gave me, and by December, 1918 the rest was paid in full.

50 Mrs. Wardell gave me \$200 at first and after that, day after day, just as they took the money in they paid me, by December they had paid me in full. Mrs. Wardell is my sister-in-law, the wife of my brother, the occasion of my getting this note of \$400 from Mrs. Wardell was that I loaned them \$400 to open a cafe, they had opened a cafe and needed some money and I loaned it to her. They were making good money and after she paid me \$200 they paid me just as they took it in. On September 18 I deposited \$227, September 19, \$229, September 20, \$10, September 23, \$72, all those sums I deposited of my own money and this check of \$510 was drawn against my bank account made in this way.

Neither prior to buying this house nor at the time of buying it was there any understanding of any kind between me and my daughters that either one of them was to have any interest in the house, I alone signed the notes and paid them as they came due, neither of my daughters contributed anything towards payment of those notes, they did contribute towards the maintenance of the house; I made all the notes, did the marketing and all, and they were living there and we had a nice home, the three of us together, and from time to time they contributed. Each of them was employed at the time, I was employed in the Bureau of Engraving and Printing, I got \$106 a month, I had another source of revenue as a dressmaker, I worked at the Bureau at night and during the day as a dressmaker.

I signed the notes and the deeds of trust in the office of McKinlay and left it to him to do the rest, in due time my deed was put on record and I began paying the notes after paying the \$510. The interest on the Arms & Drury loan of \$3,250 was \$97.50 every six months; none of those notes was in *in* fact paid by me, I just kept up the interest until I put it in the Equitable and the Equitable straightened out with them. The date was September 26, 1921, at

51 that time all the 42 notes were not paid, seven of them were not paid, they were cared for through the Equitable; the paper shown me is a statement of the transaction furnished by the Equitable showing first trust and interest at \$3,347.50, second trust notes \$236, etc., showing that the transaction was closed in that way. The seven notes not then due were each dated September 24, 1918, six for \$30 each payable respectively 36, 37, 38, 39, 40 and 41 months after date, and one for \$20 payable 42 months after date, those are the seven notes taken up by the Equitable at the time of this transaction and they bear the stamp "Paid," each one of them, "September 24, 1921," and no one of them was then due.

After this transaction I had to pay the Equitable \$36 a month, I paid it each month and am still paying it; neither of my daughters contributed anything towards paying the \$97.50, the six months' interest on the \$3,250, as long as that was running, and neither of them contributed particularly and specifically to the payment of any one of the 35 notes out of the 42, and the last seven were taken up in the transaction with the Building Association, the Equitable.

From the time I took the title to this property my daughters contributed money to me, but we were there all at home together and just as I had to meet bills and things they contributed money right along, there was not any money at any time contributed by my daughters specifically to the payment of those notes, though some of the money they gave me went towards paying the notes, I would just have different bills to pay and when they would give me money I just took it and paid it as I saw fit, it was not specially for any note, it did sometimes happen that when one of these notes became due I called on my daughters for assistance, not specially for the notes; we were all living there together and bearing the expenses together, and that continued up until after Mrs. White was
52 married, and even after her marriage while she was away from home she contributed something.

There was a time in the history of this house and my occupation of it that one third was spoken of to Mrs. Savoy, prior to that nothing was said to either daughter about her paying one third and nothing about one third was ever said to Mrs. White. When Mrs. Savoy get married I told her that I thought it best for young people to live by themselves, I told her she could take the first floor, I would take the second floor, but when she took it, instead of paying rent, she would have to pay me one third of the expenses, that is, one third of the Equitable, one third of that house note, and one third of the gas; she and her husband were living together there on that floor, they were not paying any board otherwise than by this arrangement, that is the way they were paying board; my proposition was that as she and her husband were to live there together in the house I thought she should contribute to all the expenses including the notes, she agreed to that and lived up to the agreement; that was not until after her marriage in March, 1922.

Referring to Mrs. Savoy's book, the first entry in it is in August, 1921, Mrs. White was married in May, 1921 and went off to live with her husband at Salisbury, Maryland. In January, 1921 my husband came back and I was afraid that he would take the things away from the girls should I die, I wanted to protect them and told them that their father was in town and that they should keep account of everything, so that should anything happen they would have their claims to something and he couldn't take everything away from them; Mrs. Savoy said she would, and Mrs. White said she would too, but she never bothered about it, she married shortly after that and went away. Mr. Turner had been away about fifteen years and out of town about eleven, and during the time of his absence he was not contributing one cent to my support.

53 I do not know what became of the memorandum received from the title company when the original transaction was closed, it is that paper on the back of which I wrote something that I thought was a will; I tried to make a will and can't remember just word for word what I said, but I meant to convey the idea that what I had was to go to the two girls, and that I wrote on the back of that paper; I showed that to my daughters and the last time I saw it was

when I had it in Mr. Dent's office; as a result of my taking that paper to Mr. Dent I had him draw me a will, which he did, and I executed it, and the paper shown me is the will; the check dated February 6, 1918, to Mr. Dent's order for \$35, is my check for drawing the will; neither of my daughters was present at the time this will was made, they first became aware of its execution when I took it home and showed it to them, they were together when I showed it to them. When Mr. Dent gave me this will and I came away from his office, he gave me also the paper I had taken there to show him to get his advice, and I took them back home; this paper containing the writing, with the statement of the title company, I don't remember to have seen since, I have hunted for it at counsel's request and been unable to find it.

After my will was made and I took the papers back to my house, I missed them all, after Mrs. Savoy took them, I know she took them because she was up in my apartment and took every paper she wanted, she said she took them, the bank book, the letters and papers belonging to me out of the bag, she did not return any of them.

No such conversation as that related by my former husband Mr. Turner occurred, a conversation in which I said to him in the presence of my daughters that all three of us owned the house together, a third interest each, I did not say any such thing to him then
54 or at any time; I had a conversation with him by telephone after this trouble arose, he asked me what the trouble was between me and Mrs. Savoy, that she told him she was going to sue me; I told him yes, I had heard her husband say he wanted money for a sanitarium, that she was paying one third of everything, why not have a third of the house, that she could get it, and I told him that was why she was going to sue me, to get a third. I never said that while Mrs. Savoy was entitled to a third interest in the house I wouldn't give it to her because I feared she would borrow money to enable her husband to set up a sanitarium, I didn't talk to her about her husband setting up a sanitarium, but I heard them talking about it, I did not myself participate in the conversation, only to tell him I thought it was very mean and I called him a penniless, money-hunting tramp, and he got very angry. I was in the dining room, in the room off that which had been used for a dining room before she was married, I was down there and they were out in the parlor, he thought I was asleep but I wasn't, I had been asleep and overheard this conversation between them; Mrs. Savoy's husband in that conversation said that he wanted to open a sanitarium, that she was paying one third of everything and why not own one third of the house, that she contributed money all along and he thought she should have something to show for it.

Respecting the testimony of Rose as to a conversation at which he said my daughters were present, about fixing up the apartment, I did not in that conversation say that the girls, either one of them, had a one third interest in the house, in fact Mrs. White was not present, she was out of town; I had the apartment fixed up. I remember the occasion of installing the electric equipment there; my daughter was

very much pleased when I told her to take that floor and she said she wanted to fix it up, and would I let her fix it *it*, and what
55 about the money end of it; I told her she could do just what she wanted to do with that floor, but any improvements she made there I would pay her back when they moved out, she said they would eventually get a home of their own, I told her what money she spent there I would repay her when she went in her own house; she paid for the electricity and put in the French doors. She ceased living in my house after she had the case in court; she stole some letters from me, she stole a letter and opened it and her lawyer seems to have straightened it out, he straightened it out that she would move if I didn't prosecute her, and I didn't want to prosecute her anyway, I simply wanted to stop her from taking my letters, and she moved, that was June of last year.

Mrs. Savoy from time to time contributed toward the payment of the upkeep of the house, the notes, and so forth, after she was married. She may have put money in bank for me in my name, I may have given her the money and my bank book, out of her funds she never made any deposit for me. The book that she produced containing entries in her hand-writing is the book she started to keep after I suggested to her that she keep an entry of all her advances, I do not know whether or not the entries there made are correct. The signature "Fats," my nickname, for certain of those entries is mine; I wanted her to keep a book for her own protection, it didn't matter to me what she put in there just so she took care of herself in the book, and she would come to me from time to time and I would be busy sewing and I would just write "Fats" and let her fill them in, I never paid any attention to the book; Mrs. White never kept any such book, or any account at all, I told her to, but she didn't.

On cross-examination:

I don't remember that Mrs. Savoy paid any part of a Madden bill to which her check of \$5 applies, I know that was not
53 one third of the bill because I never had a bill from Madden of \$15; the entry in the book "Madden bill \$31.85, for fixing the roof, Val. paid Fats to pay him, July 31st, \$10.62, which is my one third of the bill," is signed by me, Mrs. Savoy did not pay that I signed the blank spaces and she filled them out, I don't remember that I signed this one in blank but I don't think she paid any \$10.62, I would have remembered that.

After the conversation with Mr. Burton I put \$227 or \$229 in bank and I kept twenty something, either \$27 or \$29, at home, so that when I made the first payment of \$100 on the house as a deposit I had that \$227 or \$229 at home; I borrowed \$100 from my daughter when I had cash of my own because the house was very badly papered and I knew I would have to paper it, and then I wanted to buy some new things to put in the house and I didn't want to be without a cent, and then I had to be sure that I would have that \$500 to pay down when the papers had all gone through, I asked her that morning if she would lend it to me, I paid her right back after that, \$25 a month in cash until I paid it all back.

I got the \$200 from Mrs. Wardell soon after I decided to get the house. She gave me the \$200 before the purchase, before I had paid the \$510, after I made the deposit of \$100. I did not say all I had was \$229 at home, moreover Mrs. Wardell would pay me day after day, and by the time I made the payment on the house, the 24th of September, I had a good bit of money in hand; I did not say the \$227 or \$229 and the \$200 I got from Mrs. Wardell was all I had at the time I made the purchase. I said I had that, I had other money she gave me, I had it in the bank, I put it in the bank from time to time. The entries in the bank book are September 18, \$229, September 19, \$229, September 20, \$10, September 23, \$72, September 26, \$15.

Here occurred the following:

57 "Mr. Sherier: That is after.

"Mr. Davis: No, no, the check was cassed on the 26th. It shows on its face. The total of that is \$553, if your Honor please, and this outstanding check for \$500 was cashed on the 26th, leaving a balance of \$43.

"By Mr. Sherier:

"Q. The last check you read there was deposited in the bank on the 26th of September, two days after this deal was closed?

"Mr. Davis: At that time she had \$538 in the bank. She had \$538 on the 23rd, and she gave her check for \$510 on the 24th and it was not cashed until the 26th, at which time she had \$553 there. That is exactly the fact. Here is the check dated September 24th, paid through Riggs Bank September 26th."

I provided all of the \$610 in the manner I have stated. I paid the notes on the house; the check shown me dated August 25, 1922, was given me by my daughter and endorsed by me, the words "Two months house notes" on the front were not there when she gave me the check; the same is true of the check dated Decembr 10, 1922, having on the face the words "Three months house notes," that is in different ink.

Mrs. Savoy was married in March, I don't know whether it was in August or September before she and her husband announced their marriage and began living together, but it was some months after they got married, it was in the fall before they came to the house to live. Mrs. Savoy had never paid any amount on these notes up to the time she was married, she took the apartment some time before they began to live in it and then she had it fixed, until the husband came Mrs. Savoy and I lived there together. The entry on

58 page 88 of Mrs. Savoy's book "October 2nd, \$12 Va. paid" is after she was married, she was supposed to pay then, she did, that was on the house note, the same is true of the entry "Vallerie paid \$36, \$12 for September, November and December house note," she did pay that, she did not pay any of those marked

in lead pencil, \$12 for April, May and June; as to the entry \$10.85 fire insurance, I haven't any fire insurance on the house, nothing but what the Equitable took out, I haven't heard anything of a fire insurance policy, the fire insurance was taken out when it was straightened up with the Equitable Company, I have never paid any myself; the "\$11.75" followed by "Vallerie paid for Ver. house note August 24th because Fats didn't have it" is my signature, but it is not a true statement, I signed that first on the blank line and she filled it in, in several instances, you can see from the spaces there.

Mrs. Savoy didn't board with me after she married, she boarded herself, so that she didn't have to contribute anything toward the food, after she was married she simply contributed one third of the house note, the gas bill and the coal bill.

It was in December that Mrs. Savoy took the papers, I remember that it was in December; I have always felt that Mrs. Savoy had the paper on which Mrs. White wrote and on which Mrs. Savoy says I had written that each owned one third in the house; after I got that letter from Mrs. White I didn't take that paper and I haven't had it ever since, I have never had that paper, I felt Mrs. Savoy had it; when Mrs. Savoy asked for all my papers saying her husband wanted them I didn't let her have them to show him; when I knew anything one evening she had taken my papers downstairs for the Doctor to look over, I don't remember that that paper was among them, but she took papers after that and I felt that she took that one.

59 When Mrs. White married and left home there was no change made with respect to the handling of the house, only Mrs. Savoy and I were there together. There was never such an agreement made first that a fair rental for the house would be \$51 a month, and Mrs. Savoy and I would send Mrs. White \$8.50 a month, and as a matter of fact I didn't do that, I did the collecting and I spent it as I pleased, all the rents in the house were collected by me and I spent it as I pleased; after Mrs. Savoy married the three of us did not agree that Mrs. Savoy should have the first floor as her apartment, I the second and Mrs. White the third; I had the kitchenette put in the third floor and I rented it out, and I gave the people who rented the receipts, I did not send Mrs. White her rent for the third floor every month, I sent Mrs. White money sometimes when she would fall short of little things she wanted, when I was short she would send me money and she really sent me more at times than I sent her, neither kept any account of it, I did not pay her back since she has been married, she just sent me that money. As to the entry on page 79 of the book, "August 3rd, 1921, \$4 of apartment rent," there was a man living there by the name of Twine, I don't know anything about that \$4, the man paid me \$18 for his room; "April 3rd, \$7.50 on grandma's room" means that my mother was supposed to pay \$15 a month for her room, she paid me \$15 sometimes and sometimes she didn't; whether that means that I turned over to Mrs. Savoy \$7.50, I never turned over to her any rent other than what I wanted to give her at times; as to the entry August 6, "Roscoe's rent," those statements down there are all wrong, some of them may have

been signed by me before they were made up and some may not have been, because often she would bring me the book and she would have a statement written and I would sign some of them after she had them written, but I would be busy and it was her book, it was
60 her protection; sometimes it was handed to me blank and I would sign it, she would tell me and I would do it sometimes; as to all the entries on page 80 as well, I don't mean to say it is true of some of them, some of them I may know something about, but she never received any rent from anybody; I got all that rent; my explanation is that I signed some of these and never noticed them, often they would be blank spaces not written out when I signed them. As to the entry on page 81, "\$8.50 Val. paid Ver. for June rent," I don't know anything about any \$8.50, we weren't to pay Mrs. White \$17. As to the entry "Ver. owes Vallerie August \$26, 22; \$8.50 Val. paid Ver. for September rent," Vermelle may have owed her something, because they owed each other at times, but I don't know anything about the \$8.50, I have the same explanation as to all these \$8.50's. It is not a fact that Mrs. Savoy and I paid Mrs. White \$5 a month each because she had one room less on the third floor than were on the other floors. As to the entry on page 96, "\$5 taken off that Vallerie owes for room rent, November 2," and signed by me, I don't remember what that is.

I don't know about the entry immediately underneath Val. paid Ver, November 5, piano and room rent for November, \$10," that happened between themselves, I don't know anything about it, that was between the girls, I never bothered about that. Whether the signature to the entry "Val. paid Ver. \$5 for her back room November 4th," I can't tell whether that is Mrs. White's because the two girls write just alike. I don't know about the entry November 15, "\$5 taken off for December rent" and about the entry "Fats paid me December 18th, Vermelle owes Vallerie, December 8, on the piano she is buying from Vallerie," I paid her that for the piano, she was very angry with me at that time, because the doctor had told her to try to get the money out of the house, and she called me "Mrs.
61 Turner" and had me sign here where Mrs. White paid for the piano, but I didn't put that lead pencil over the top; I don't know about that \$5, that is written in ink that I signed. If the entry page 100 "Val. paid Fats \$4.33 for one ton of coal, December 10th," 1922, is after she married, that may have been correct, I don't know.

As respects the letter of Mrs. White of April 1923, she wrote and sent me a check for \$7 for me to pay on the house note because I was that much short, she did not say in her letter, "I enclose check for \$7 to apply on my house note, which pays up my bills through April," I did cash that check, I have never seen the letter, they had the letter in Court, I think my lawyer had that letter, the last time I saw it I think my lawyer had it.

On redirect examination :

Prior to this letter of April which Mrs. White wrote me, I wrote her, I told her that I was a little short of money with which to pay my bills and asked her if she could send me a little, she said in reply that she was sending me \$7 which I was short on my house note, and the last I saw of that I turned the letter over to my lawyer, Mr. Cobb, and haven't seen it since.

At the time I had this transaction in which I paid \$100 deposit and gave my check afterwards for \$510, and gave my notes for \$3,250 and for \$1,250, neither one of my daughters promised or undertook in any way to help me pay those notes, they did not in any manner, shape or form assume any liability to either me or anybody else for those notes.

62 By **Whitefield McKinlay** :

I have been engaged in the real estate business in the City of Washington for the past thirty years, my office is, and since prior to 1918 has been, at No. 810 F Street, Northwest. I was during portions of the administration of Presidents Taft and Wilson Collector of the Port of Georgetown. Thomas H. R. Clarke is, and in 1918 was, associated with me in business at my office. In the fall of 1918 the defendant Mrs. Turner called at my office with a view to purchasing a house. She was alone. I undertook to find a house for her but did not attend to the matter personally, I turned it over to Mr. Clarke. Eventually Mrs. Turner decided to buy the house 1755 U Street, Northwest, Washington, D. C., and signed an agreement for that purpose, which also I signed as agent of the seller. At the time of signing the agreement Mrs. Turner made a deposit of \$100 in cash in my office. Mrs. Turner, Mr. Clarke and I alone were present. The money was actually delivered to Mr. Clarke, who turned it over to me in Mrs. Turner's presence. The transaction of making the four notes dated September 24, 1918, three for \$1,000 and one for \$250, was had in my office, the notes and the deed of trust securing them were all signed in my office by Mrs. Turner at the same time. Also at the same time the transaction of the second deed of trust securing 42 notes, 41 for \$30 each and one for \$20, was had in my office, Mrs. Turner signed all of those notes and that deed of trust in my office and in my presence. Each of the two deeds of trust was acknowledged by Mrs. Turner before Mr. Lacey, a notary public, who was sent for for the purpose of taking the acknowledgments. The three notes for \$1,000 each and the fourth for \$250 were turned over to Arms & Drury, through
63 whose office the loan represented by those notes and the deed of trust relating to them was had. The other 42 notes secured by the second deed of trust were turned over to the seller Mr. Kenney, and collected through the Union Savings Bank. Neither Mrs. Savoy nor Mrs. White was present at my office in connection with either of the transactions described, but Mrs. Savoy called at my office for the first time a short time before this suit was

brough and on that occasion she asked me the price at which her mother bought the house, and I told her \$5,000.

By Thomas H. R. Clarke:

I am, and for a time prior to 1918 have been, engaged in the real estate business in the City of Washington, in association with Whitefield McKinlay at his office No. 810 F Street, Northwest. In September 1918 the defendant Mrs. Turner came to the office about buying a house and I showed her several, including No. 1755 U Street, Northwest, which she decided to buy. On no one of the occasions of her being at the office or being shown any house by me was either of her daughters present. When Mrs. Turner decided to buy the house No. 1755 U Street, Northwest, she signed an agreement for that purpose in our office, and at the time made a deposit of \$100 in cash, which she handed to me and I turned the money over to McKinlay. Besides Mrs. Turner, McKinlay and myself no one else was present. I remember the occasion of the execution of the two deeds of trust on the house, one to secure \$3,250, represented by three notes of \$1,000 each and one note for \$250, and the other to secure \$1,250, represented by 42 notes, 41 for \$30 each and one for \$20. The two deeds of trust and all of the notes were signed by Mrs. Turner at the same time in our office. Neither of her daughters was present. Mr. Lacey, the notary public, was sent for and came to the office and took Mrs. Turner's acknowledgment to the two deeds of trust. The notes secured by the
64 first deed of trust were turned over to Arms & Drury through whose office the transaction concerning them was had, and the 42 notes representing the \$1,250 were turned over to the seller of the house and collected through the Union Savings Bank of the City of Washington. The dates in the deeds of trust and the signatures of the notary thereto are all in Mr. Lacey's handwriting. The first deed of trust was prepared in the office of Arms & Drury and the second deed of trust was prepared by me. Our office had nothing to do with collecting any of the notes represented by either of the deeds of trust. When the transaction of buying the house was finished I made up the statement of the amounts received and the amounts paid out and gave it to Mrs. Turner. There was a deposit of \$100 in money made at the time of the signature of the agreement of purchase, and afterwards Mrs. Turner gave her check on the Union Savings Bank for \$510 to the order of the title company, through whose office the transaction was closed, making her cash outlay in all \$610. The extra \$110 over and above the amount of the prescribed cash payment, \$500, was for expenses of searching the title, adjusting insurance, taxes, etc., and the amount paid \$610, was an over payment of \$6.28, which latter was refunded to Mrs. Turner. I at no time saw either Mrs. Savoy or Mrs. White in connection with this transaction, and the only time I ever saw Mrs. Savoy at our office was shortly before this suit was brought, when she called and had some conversation with McKinlay which I did not hear.

The foregoing is a true and complete statement of the evidence given and received on the hearing of the above-entitled cause, and is accordingly approved as the statement of evidence to be considered on the appeal of the defendant Turner this 31st day of May, 1924.

JENNINGS BAILEY,
Justice.

Endorsed on cover: District of Columbia Supreme Court. No. 4230. Hortense W. Turner et al. vs. Vallerie T. Savoy. Court of Appeals, District of Columbia. Filed Sep. 30, 1924. Henry W. Hodges, clerk.

(4337)

ADDITION TO RECORD PER STIPULATION OF COUNSEL.

Court of Appeals of the District of Columbia.

JANUARY TERM, 1925.

No. 4230.

**HORTENSE W. TURNER AND VERMELLE T. WHITE,
APPELLANTS,**

vs.

VALLERIE T. SAVOY.

FILED JANUARY 30, 1925.

In the Court of Appeals of the District of Columbia, January Term,
1925.

No. 4230.

**HORTENSE W. TURNER and VERMELLE T. WHITE, Appellants,
vs.**

VALLERIE T. SAVOY.

Stipulation for Addition to Record.

It is hereby stipulated and agreed by the parties to the above-entitled cause, by their respective attorneys, that the following shall be deemed and taken to be part of the record on the appeal in the said cause:

1. The preliminary agreement of sale and purchase of the property involved was offered and received in evidence on the hearing and was and is as follows:

“Washington, D. C., Sept. 5, 1918.

“Received of Mrs. H. W. Turner a deposit of One Hundred (\$100.00) Dollars, to be applied as part of the purchase money for

house No. 1755 You St. N. W. sold to Mrs. H. W. Turner for Five Thousand (\$5,000.00) Dollars, and upon the following terms, property to be subject to 1st Trust of \$3,500.00—\$500.00 to be paid in cash, & 2nd Trust of \$1,000.00 in notes \$30.00 per month.

"The title is to be good of record or the deposit is to be refunded. Taxes, house rent, water rent, interest and insurance to be adjusted to the date of the delivery of the usual special warranty deed to the purchaser. The purchaser to pay fees for title examination, conveying and recording, and is to make settlement in accordance with the above terms within thirty days from date, otherwise the above deposit is to be forfeited and sale declared off, at the seller's option.

"Deposit is taken subject to owner's approval.

"W. McKINLAY,
Agent.

"Accepted:

"HORTENSE W. TURNER,
Purchaser.

"Approved:

Owner."

2. In connection with the testimony of appellant Turner, as reported at the bottom of page 30, the top of page 31 and the top of page 35 of the record, respecting her obtaining from her sister-in-law Mrs. Jeanette Waddell the sum of \$200, the paper writing offered and given in evidence, the respective signatures to which are in the handwriting of Mrs. Waddell and appellant Turner, is in full as follows:

"July 16th, 1918.

"I do hereby agree to pay Hortense W. Turner the sum of four hundred Dollars (\$400.00) within six months from date, value received.

"JEANNETTE WADDELL.

"(Paid in full Dec. 29, 1918.

HORTENSE WALLACE TURNER.) ;"

and Mrs. Waddell testified as a witness in the cause that the next day or two after September 15, 1918, she paid appellant Turner in cash \$200, part of the \$400 aforesaid; that she made other payments on account thereof, and that the same was paid in full December 29, 1918.

HENRY E. DAVIS,

JAMES A. COBB,

Attorneys for Appellant.

JOSEPH T. SHERIER,

Attorney for Appellee.

[Endorsed:] Court of Appeals, D. C. No. 4230. Turner et al., appellants, vs. Savoy. Stipulation for addition to record. Henry E. Davis, Attorney and Counsellor at Law, Wilkins Building, Washington, D. C. Court of Appeals, District of Columbia. Filed Jan. 30, 1925. Henry W. Hodges, clerk.

